

**IN THE U.S. DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

APPLE INC.,

Plaintiff,

v.

MASIMO CORPORATION and
SOUND UNITED, LLC,

Defendants.

MASIMO CORPORATION,

Counter-Claimant,

v.

APPLE INC.

Counter-Defendant.

C.A. No. 22-1377-JLH

JURY TRIAL DEMANDED

**MASIMO’S MOTION FOR SUMMARY JUDGMENT THAT
CERTAIN APPLE DESIGN PATENTS ARE INVALID FOR
INDEFINITENESS UNDER 35 U.S.C. § 112 (MOTION RANK NO. 3)**

Pursuant to Federal Rule of Civil Procedure 56, Defendants Masimo Corporation and Sound United, LLC (“Masimo”) respectfully move for summary judgment that certain Apple Design Patents are invalid for indefiniteness under 35 U.S.C. § 112.

Pursuant to the requirement in the Scheduling Order to rank motions for summary judgment (1377 D.I. 103 at 11 n.2), Masimo ranks this Motion No. 3. Masimo lists each of its summary judgment motions and their corresponding rankings in its Notice of Summary Judgment and *Daubert* Motions and Ranking of Summary Judgment Motions, filed concurrently herewith.

Respectfully submitted,

February 5, 2024

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CERTIFICATE OF SERVICE

I hereby certify that on February 5, 2024, I electronically filed the foregoing with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused to be served copies of the foregoing document on February 5, 2024, upon the following in the manner indicated:

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Dated: February 5, 2024

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